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10/074,362	02/12/2002	Brian N. Tufte	1076.1101106	9078

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EXAMINER

NEGRON, ISMAEL

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

10/074,362

Applicant(s)

TUFTE, BRIAN N.

Examiner

Ismael Negron

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- |                                                                                                              |                                                                             |
|--------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> . | 6) <input type="checkbox"/> Other:                                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed on July 3, 2003 has been entered. Claims 1-3, 11, 14, 15 and 17 have been amended. No claim has been added or cancelled. Claims 1-20 are still pending in this application, with claims 1, 11 and 14 being independent.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "nubs being separate from the two terminating ends" (Claim 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings, specifically Figures 38 and 39, show the nubs (764a and 764b) to be located at the terminating ends of the supporting legs (748 and 750), not separate as claimed.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite as is not clear what the meaning of the term "separate" is in light of the specification and drawings. No "separate" nubs are disclosed.

Claims 2-10 are rejected for their dependency on rejected claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6, 11-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Newman (U.S. Pat. 3,359,030).

Newman discloses a bumper assembly having:

- **an elongated bumper member**, Figure 4, reference number 16;
- **an elongated carrier having a cavity for receiving the bumper member**, Figure 4, reference number 14;
- **the elongated carrier including one or more walls having inner surfaces**, Figure 4, reference number 30;

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- **a slot defined by two terminating ends of the one or more walls**, Figure 4, reference number 24;
- **nubs extending into the cavity from at least one of the walls**, Figure 4, reference numbers 34 and 36;
- **the nub being separate from the terminating ends**;
- **the nubs providing an increased thickness**, Figure 4;
- **the bumper member being received by the slot**, as seen in Figure 4;
- **the bumper member having an shaped adapted to accept the nubs**, column 2, lines 41-50; and
- **the bumper member and/or the carrier being at least partially deformed for the bumper member to slip into the slot.**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 5 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Newman (U.S. Pat. 3,359,030).

Newman discloses a bumper assembly having:

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- **an elongated bumper member**, Figure 4, reference number 16;
- **an elongated carrier having a cavity for receiving the bumper member**, Figure 4, reference number 14;
- **the elongated carrier including one or more walls having inner surfaces**, Figure 4, reference number 30;
- **a slot defined by two terminating ends of the one or more walls**, Figure 4, reference number 24;
- **nubs extending into the cavity from at least one of the walls**, Figure 4, reference numbers 34 and 36;
- **the nubs being separate from the terminating ends**;
- **the nubs providing an increased thickness**, Figure 4;
- **the bumper member being received by the slot**, as seen in Figure 4;
- **the bumper member having an shaped adapted to accept the nubs**, column 2, lines 41-50.

Newman discloses all the limitations of the claims, except the nubs providing a decreased thickness.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to provide the bumper member of Newman with protrusion to match concave nubs on the carrier, since it has been held that rearranging parts of a prior art structure involves only routing skill in the art. *In re Japikse*, 86 USPQ 70.

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6. Claims 7 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Newman (U.S. Pat. 3,359,030) in view of Millar (U.S. Pat. 1,729,274) and Dealey et al. (U.S. Pat. 5,678,914).

Newman discloses a bumper assembly having:

- **an elongated bumper member**, Figure 4, reference number 16;
- **an elongated carrier having a cavity for receiving the bumper member**, Figure 4, reference number 14;
- **the elongated carrier including one or more walls having inner surfaces**, Figure 4, reference number 30;
- **a slot defined by two terminating ends of the one or more walls**, Figure 4, reference number 24;
- **nubs extending into the cavity from at least one of the walls**, Figure 4, reference numbers 34 and 36.

Newman discloses all the limitations of the claims, except the elongated bumper member including a cavity for receiving a linear light emitting fiber for providing illumination through a at least semi-transparent portion of such bumper member.

Millar discloses a bumper with a light reflecting material (Figure 3, reference character E'), such as glass (column 1, lines 64-69), for providing vehicle clearance illumination at night (column 1, lines 1-17).

Dealey et al. discloses an elongated illumination member having an elongated bracket (Figure 3, reference character 96) and a linear emitting fiber (Figure 3, reference character 34A) for providing illumination.

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It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the teachings of Millar and Dealey et al with the bumper device of Newman to obtain a bumper capable of providing vehicle clearance illumination without the need for external light sources.

7. Claims 8 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Newman (U.S. Pat. 3,359,030) in view of Millar (U.S. Pat. 1,729,274) and Dealey et al. (U.S. Pat. 5,678,914).

The combined teachings of Newman, Millar and Dealey et al. disclose, or suggest, all the limitations of the claims, except the elongated light source being an electro luminescent wire (ELEW) or a string of lights.

The examiner takes Official Notice that the use of ELEW is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an ELEW for the light source in the system of Dealey et al.. One would have been motivated since ELEW are recognized in the illumination art to have many desirable advantages, including high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

### ***Response to Arguments***

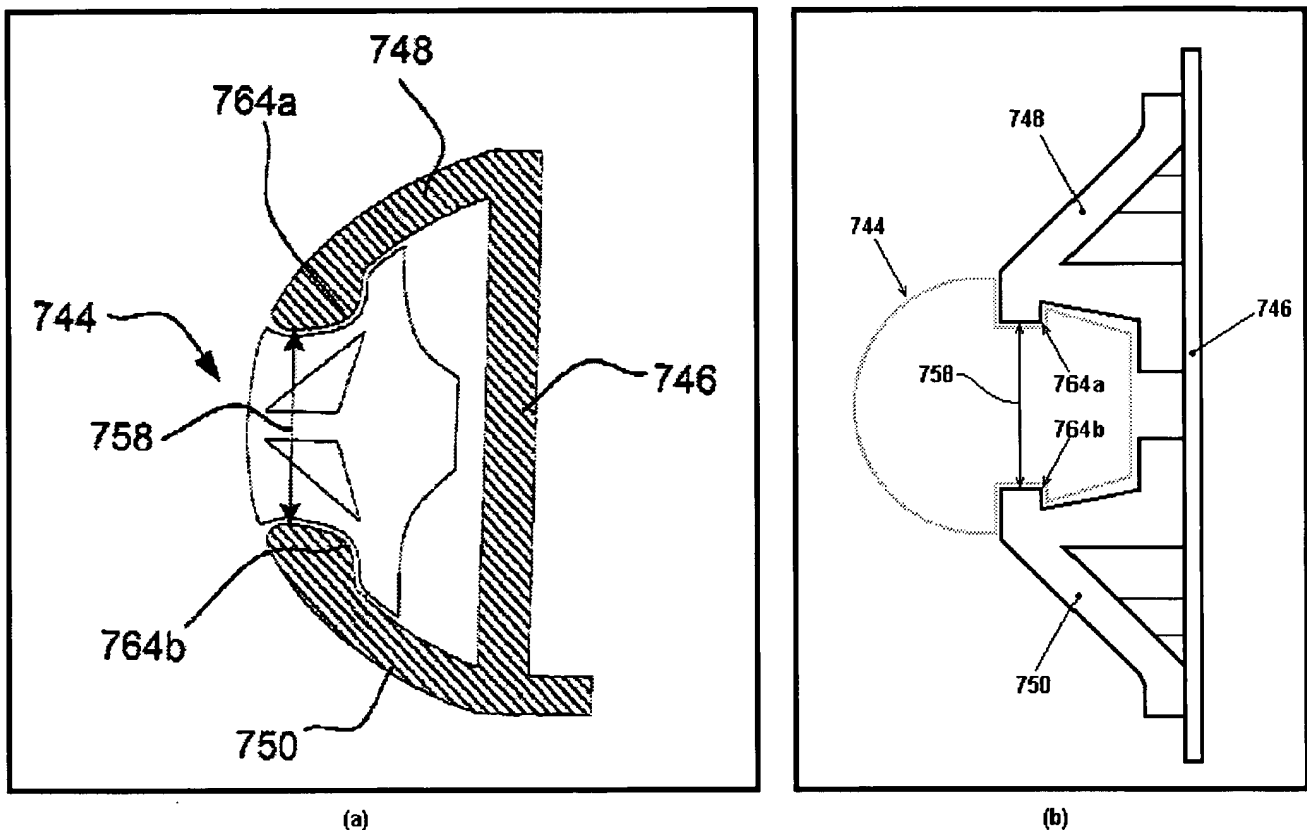
8. Applicant's arguments filed July 3, 2003 have been fully considered but they are not persuasive.



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9. Regarding the Examiner's rejection of claims 1, 11 and 14 under 35 U.S.C. 102(b), the applicant argues that the cited reference fails to disclose all the features of the claimed invention, specifically the two terminating ends defining the slot, as well as an inwardly extending nub.

To clarify the Examiner's interpretation of Newman the applicant is advised to study Figure 4 of Newman in view of applicant's own Figure 38. For applicant's convenience the Examiner has modified the cited figures to show only the relevant



Part of Figure 38 of the instant application (a) and Figure 4 of Newman (b). Newman's figure has been modified to designate elements corresponding to those of the claimed invention using the same reference numbers used by the applicant.

reference numbers. In addition, the various elements and features of the structure

presented by Newman have been given new reference numbers to match those used

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by the applicant. As it is evident, both applicant's Figure 38 and Newman's Figure 4 show a bumper member (744) and a carrier (742) having a pair of supporting legs (748 and 750). The supporting legs having nubs (764a and 764b) located at each end. A slot (758) is defined by the ends of the supporting legs. The only difference between both structures is the use of rounded edges by the applicant, as opposed to Newman's rather square edges.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negrón whose telephone number is (703) 308-

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6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.



**ALAN CARIASO**  
**PRIMARY EXAMINER**

Inr

September 5, 2003